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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,612	07/07/2005	Erhard Kemnitz	2918-110	8344
6449 7590 07/02/2007 ROTHWELL, FIGG, ERNST & MANBECK, P.C. 1425 K STREET, N.W. SUITE 800 WASHINGTON, DC 20005			EXAMINER HAILEY, PATRICIA L	
			ART UNIT 1755	PAPER NUMBER
			NOTIFICATION DATE 07/02/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/541,612	<b>Applicant(s)</b> KEMNITZ ET AL.	
	<b>Examiner</b> Patricia L. Hailey	<b>Art Unit</b> 1755	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 July 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,7-9 and 11-17 is/are rejected.
- 7) ☐ Claim(s) 3,4,6,10 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>07/07/2005</u> . | 6) <input type="checkbox"/> Other: _____  |

Applicants' Preliminary Amendment, filed on July 7, 2005, has been made of record and entered. In this amendment, no claims have been canceled or added.

Claims 1-18 are pending in this application.

### ***Claim Objections***

***1. Claims 4, 6, 10, and 18 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim, and should refer to other claims in the alternative only.***

See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Further, claim 18 recites the phrase "whereby preferably the catalyst is a catalyst according to any of the preceding claims"; preceding claims 1-10 are directed to a method.

***2. Claim 3 is objected to because of the following informalities:***

Claim 3 recites the phrase "acidic acid"; it appears that the claim is intended to recite "acetic acid".

Appropriate correction is required.

Claims 1-3, 5, 7-9, and 11-17 under consideration by the Examiner.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. ***Claims 1, 2, 5, 7, 9, and 11-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Power et al. (U. S. Patent No. 5,277,889).***

Power et al. teach metal halide compositions produced by vapor phase deposition via reactions involving organometallic starting materials in a process wherein a carbon getter is provided in a reaction zone. See the Abstract of Power et al., as well as col. 3, lines 3-25.

Examples of carbon getters include  $\text{CClF}_3$  (which reads upon the formula recited in Claim 7 when  $g = 0$  and  $h = 3$ ). See col. 3, lines 27-31 of Power et al.

Patentees' method can be used in the vapor deposition of any desired metal halide or combinations of metal halides, but is particularly useful in the manufacture of halide glasses, which are non-crystalline or amorphous metal halide compositions. See col. 3, lines 53-64 of Power et al., which discloses exemplary metal fluorides comparable to those represented by the formulae recited in claims 13-17.

In view of these teachings, Power et al. anticipate claims 1, 2, 5, 7, 9, and 11-17.

5. ***Claims 1, 5, 8, 9, and 11-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Balzer et al. (U. S. Patent No. 4,798,818).***

Balzer et al. teach a process for preparing a catalyst by mixing aluminum fluoride with a transition metal compound (selected from compounds of, inter alia, chromium and vanadium), and contacting the admixture with sufficient anhydrous HF to convert the transition metal compound to a transition metal fluoride. See col. 4, lines 35-50 of Balzer et al.

The mechanical mixture of aluminum fluoride and the metal compound should preferably be heated to a temperature greater than about 150°C in the presence of HF. See col. 5, lines 31-44 of Balzer et al.; this disclosure is considered to read upon the limitations of claim 5 regarding the "temperature below the crystallization point of the amorphous metal fluoride".

In view of these teachings, Balzer et al. anticipate claims 1, 5, 8, 9, and 11-17.

***Allowable Subject Matter***

***6. Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.***

Applicants are respectfully informed that the indication of allowable subject matter can and will be withdrawn, pending Applicants' amendments to the instant claims and remarks in response to this Office Action.

***Priority***

7. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Applicants' Priority Documents were filed on July 7, 2005.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

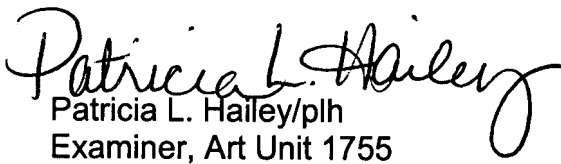
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Hailey whose telephone number is (571) 272-1369. The examiner can normally be reached on Mondays-Fridays, from 7:00 a.m. to 3:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo, can be reached on (571) 272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 1700 Receptionist, whose telephone number is (571) 272-1700.

Art Unit: 1755

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Patricia L. Hailey/plh  
Examiner, Art Unit 1755  
June 18, 2007

  
J. A. LORENGO  
SUPERVISORY PATENT EXAMINER